OGC Has Reviewed

7 March 1960

MEMORANDUM FOR: Legislative Counsel

SUBJECT: H.R. 8121 - To Amend the Subversive Activities Control Act of 1950 by Providing for a Defense Department Industrial Security Program

1. H.R. 8121 passed the House on 2 February 1960 and has now been referred to the Judiciary Committee in the Senate. Representative Walter, the author of the bill, succeeded in placing it on the consent calendar and thus contrived its expeditious passage.

2. As reported in the Congressional Record for 2 February 1960 (pages 1628 and 1629), the bill would add a new section 5A to the Subversive Activities Control Act of 1950 (P.L. 81-831, 50 U.S.C. 781). Section 5A would provide as follows:

> "The Secretary of Defense is authorized to prescribe uniform standards and criteria for determining the eligibility for access to classified defense information of (1) any person who has a contract with a military department, (2) any person who has a subcontract of such contract, and (3) any employee of any such person. The Secretary shall prescribe the administrative procedures governing the disposition of all cases in which eligibility for access to classified defense information has been denied, suspended, or revoked. Any administrative procedures prescribed by the Secretary under this section shall be designed to protect from disclosure all information which, in the opinion of the Secretary, would affect the national security, safety, or public interest, or would tend to compromise investigative sources or investigative methods."

3. In discussing this bill, Mr. Walter served notice that "the effect of my bill is specifically to overcome the decision of the Supreme Court in the Greene case so that the Department of Defense may have Congressional authority to safeguard our industrial establishments without disclosing information injurious to our national security."

4. This bill does not specifically include CIA in its coverage and this Agency would not be directly affected by its passage except

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5. It appears to me that as long as the Supreme Court maintains the attitude which seems to have been displayed in the Greene case, a bill such as this, if enacted into law, might well be declared unconstitutional when subjected to a court test.

6. In conclusion, in my opinion, it is not necessary for this Agency to take a stand in opposition to this bill. Since it is possible that some legislation on this subject may be enacted in the present session, it would be desirable to make contact with the appropriate Committee staff members to learn as soon as possible what legislative proposal is most likely to be the vehicle of Congressional expression. With this information, the Office of General Counsel and the Office of Security should make a joint examination of the impact of the proposal on our activities.

STAT [redacted]
Assistant General Counsel

STAT [redacted]
cc: Office of Security

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